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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

February 22, 2001

Magalie Salas  
Secretary  
Federal Communications Commission  
445 - 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: 2000 Biennial Regulatory Review of  
Part 68 of the Commission's Rules and  
Regulations--CC Docket No. 99-216--  
Report and Order adopted 11/9/2000 and  
released 12/21/2000

Dear Ms. Salas:

Pursuant to section §1.429 of the Commission's Rules, 47 CFR §1.429, the American National Standards Institute ("ANSI") seeks reconsideration of the FCC's Report and Order in the captioned docket ("Report and Order").

An original and seven copies of the ANSI Petition for Reconsideration are enclosed. Please date-stamp and return the extra copy to our messenger.

Should you have any questions regarding this matter, please contact me at 202-331-3610.

Sincerely,

Jane W. Schweiker  
Director, Public Policy and Government Relations

Enclosures

No of copies 012  
Listed 102

**Before the  
Federal Communications Commission  
Washington, DC**

In the Matter of 2000 Biennial Regulatory )  
Review of Part 68 of the Commission's ) CC Docket No. 99-216  
Rules and Regulations )

**PETITION FOR RECONSIDERATION**

Pursuant to section §1.429 of the Commission's Rules, 47 CFR §1.429, the American National Standards Institute ("ANSI") seeks reconsideration of the FCC's Report and Order in the captioned docket ("Report and Order").<sup>1</sup>

ANSI is very pleased that, in the Report and Order, the FCC has chosen to recognize some of beneficial attributes of ANSI and the processes by which it accredits standards developers and approves American National Standards.

With all due respect, however, ANSI believes that there are three areas in which the FCC should modify the Report and Order so that it more accurately reflects ANSI's processes and procedural requirements.

**1. The Characterization of the Different "Methods" of  
Developing American National Standards is Incorrect.**

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<sup>1</sup> Report and Order, CC Docket No. 99-216, adopted November 9, 2000, released December 21, 2000, FCC 00-400. Notice of the Report and Order was published in the Federal Register at 66 Fed Reg 7579, Wednesday, January 24, 2001.

In paragraphs 22 and 28 of the Report and Order, the FCC has made some characterizations of the three methods of developing American National Standards that ANSI does not believe are accurate. The ANSI Board of Directors, through its Board National Issues Committee, has reviewed the three methods in close detail and determined that they are all equivalent methods of developing American National Standards. (Please see the “Report and Recommendation of the Ad Hoc Group of the ANSI Board National Issues Committee Addressing the Viability of the Canvass Method for Standards Development” located at <http://web.ansi.org/public/library/guides/default.htm>).

We note that the FCC has not equated the canvass method with the organization and committee methods. In paragraph 28 of the Report and Order, it states that “[t]he Canvass Method provides that due process be used to determine consensus only after the draft standard has been developed. Thus, development of the draft standard for which consensus is sought under the Canvass Method does not necessarily include broad and open participation as does the other two accreditation methods.”

Please be advised that there is no such requirement whatsoever for any of the three development methods regarding the production of a draft proposed American National Standard. To require that a balanced, open group of all materially interested parties must together write a draft document would seem to ANSI to be both unnecessary and impractical. In actual practice, many standards developers using the organization or committee methods rely on a small task group to prepare a draft standard for consideration by the full consensus body, or else they use an already prepared document (such as either a draft industry standard or one that already is in use such as an international standard) as the draft consensus document.

Please be further advised that it has come to ANSI's attention that ACIL filed comments on or about June 23, 2000 with regard to this Matter in which ACIL stated as follows:

“Therefore, ACIL believes that standards developed using the ANSI Canvass Method should be excluded from consideration because all interested parties are not allowed to participate in the actual development of the standard. Under the ANSI Canvass Method, only members of the ‘consensus body’ (i.e., the Canvass List) may comment and vote on the final draft of the standard.”

As described above, ANSI does not require, under any of the three methods, that all interested parties must sit down and together draft the standard. However, ANSI does require, for all three methods (including the Canvass Method), that:

1. All relevant interest categories are represented on the consensus body and the process is not dominated by any individual or interest group;
2. All consensus body members may vote on the proposed standard;
3. All drafts of the standard (except only those where minor editorial changes have been made) – including the final draft - must undergo a public review and comment period;
4. All negative comments (whether from a member of the consensus body or from a public review commenter) must be reviewed, considered and responded to;
5. All unresolved negative comments (again, whether from a member of the consensus body or public review) and substantive changes made to the draft standard must be re-circulated to the consensus body so that members may have an opportunity to review such comments and change their vote (and if

substantive changes were made to the standard, then there must be another public review period and the process is repeated); and

6. All unresolved negative commenters (again, regardless of whether they are consensus body members and/or public review commenters) must be apprised of their right to appeal.

In other words, it is not accurate to say that under the Canvass Method only the consensus body members may comment and vote on the final draft of the standard. ANSI requires that all substantive drafts of all proposed American National Standards be appropriately circulated (both to the consensus body and the public at large) and that an attempt is made to resolve all negative comments. This basic formula has been the hallmark of the ANSI process for decades, and it has earned widespread respect and acceptance.

In other words, the essential requirements under all three methods, including the Canvass Method, are identical. The goal of the ANSI process is to obtain a document that a balanced consensus of materially affected interest groups believes is an appropriate standard. Due process is critical when it comes to determining if that consensus has been fairly achieved.

Accordingly, ANSI suggests that paragraph 28 (the text of which follows) and the related footnotes be eliminated:

~~“28. Pursuant to ANSI procedures, an entity that develops standards may be accredited under one or more of three methods for developing evidence of consensus: (1) the Organization Method, (2) the Standards Committee Method, and (3) the Canvass Method. The Organization Method is most often used by associations or societies that have, among their other activities, an interest in developing standards. The Standards Committee Method is most often used when a standard affects a broad range of diverse interests or where multiple associations or societies with similar interests exists. The primary operational difference between the Organization Method and the Standards Committee Method is that, in the latter, ANSI generally requires the entity to~~

~~be divided into a consensus body and a secretariat. The functions of the secretariat include overseeing the consensus body's compliance with ANSI criteria and administrative functions in connection with the development and approval of standards. The Canvass Method provides that due process be used to determine consensus only after the draft standard has been developed. Thus, development of the draft standard for which consensus is sought under the Canvass Method does not necessarily include broad and open participation as does the other two accreditation methods."~~

Similarly, ANSI respectfully suggests that paragraph 22 (the text of which follows) be modified as follows:

"22. Accordingly, we conclude that any standards development organization (SDO), accredited by ANSI~~under the ANSI Organization Method or the Standards Committee Method~~, can establish technical criteria for terminal equipment pursuant to ANSI consensus decision-making procedures, and, as discussed in detail below, submit such criteria to the Administrative Council for Terminal Attachments established by industry. ..."

## **2. The Reference to Appeals at ANSI is Inaccurate.**

The Report and Order provides for appeals to the "American National Standards Board" (which we presume was meant to refer to the ANSI Board of Standards Review or BSR) to hear appeals on technical issues and at certain points in time. Please be advised that the ANSI BSR only hears appeals regarding procedural issues and only with regard to a standard that is submitted to it for approval as an American National Standard. While sometimes the issues raised as part of an appeal relate to the treatment of technical issues, the ANSI BSR will only issue a decision regarding the standards developer's compliance with all of ANSI's requirements for the development of American National Standards. In addition, appeals must be filed at ANSI within 15 working days after receipt of notification by ANSI of an action by the BSR to approve or not approve a standard. Finally, anyone wishing to appeal to ANSI must first exhaust the appeals mechanism at the standards developer.

Accordingly, ANSI respectfully suggests that paragraphs 52, 71 and 72 (the text of which follows) be modified as follows:

“52. We conclude that the Administrative Council will adopt technical criteria for terminal equipment through the act of publishing criteria developed by ANSI-accredited standards development organizations. This process will operate as follows: Immediately upon receipt of the document containing the submitted technical criteria, the Administrative Council will publish a public notice detailing the technical criteria and the standards development organization responsible for its submission. Interested parties will have 30 days to appeal any aspects of the proposed technical criteria to the standards development organization, ~~to the American National Standards (ANS) Board~~, or to the Commission. In addition, interested parties may submit an appeal relating to the process by which any American National Standard was developed to the ANSI Board of Standards Review pursuant to its Operating Procedures and within the timeframes delineated therein. Simultaneously with the appeal, the party appealing the proposed technical criteria must provide notice of this appeal to the Administrative Council. If no appeals are filed within 30 days after the Administrative Council’s public notice, then the Administrative Council will publish the technical criteria, and the Commission will consider the criteria presumptively valid.”

“71. *Appeals of Technical Criteria Before Publication by the Administrative Council.* We adopt our proposal to require a party, aggrieved by an SDO’s decision to submit a document containing technical criteria to the Administrative Council for publication, to appeal this decision through the SDO’s ANSI-accredited appeal procedures. As explained *supra* in Section C.2.c, interested parties will have 30 days to appeal any aspects of the proposed technical criteria to the standards development organization: ~~to the American National Standards (ANS) Board~~, or to the Commission. In addition, interested parties may submit an appeal relating to the process by which any American National Standard was developed to the ANSI Board of Standards Review pursuant to its Operating Procedures and within the timeframes delineated therein. Simultaneously with the appeal, the party appealing the proposed technical criteria must provide notice of this appeal to the Administrative Council. If no appeals are filed within 30 days after the Administrative Council’s public notice, then the Administrative Council will publish the technical criteria, and the Commission will consider the criteria presumptively valid. These procedures should address the needs of a party that has a direct and material interest in the criteria at issue, as well as a commenter in the standard development proceedings whose interest may not rise to the level of “direct and material.” We conclude that this appeal process alleviates local exchange carrier commenters’ concerns that they may be required to permit connection of terminal equipment that is the subject of appealed criteria.

“72. *Appeals of Technical Criteria After Publication by the Administrative Council.* If the Administrative Council receives a complaint ~~appeal~~ regarding

published technical criteria, the Administrative Council shall refer the proposed technical criteria and the comments back to the submitting SDO. The SDO shall first try to satisfy the objecting party's concerns, subject to a time limitation imposed by the Administrative Council. ~~if that process is unsuccessful~~ The party filing an objection may then appeal an action or inaction by the SDO and then must exhaust their appeal process through the SDO and ANSI (if appropriate). If the SDO appeal procedures are completed but are unsuccessful in resolving the objection, the objecting party may file a request for *de novo* review by this Commission, as explained *supra* in Section C.4.b. ~~If~~ Regardless of whether a complaint or an appeal is initiated before or after the Administrative Council publishes the technical criteria, the Commission will ~~continue to not~~ recognize the technical criteria as presumptively valid until the appeal has been resolved by the SDO (and ANSI if appropriate), and, if review is sought here, by the Commission."

### **3. ANSI Procedures Require the Right of Participation by All Interested**

#### **Parties.**

The FCC correctly notes in paragraph 29 that ANSI's due process requirements include "[t]he right of any person (organization, company, government agency, individual, etc.) with a direct and material interest to participate by expressing an opinion and its basis, having that position considered, and appealing if adversely affected" and a requirement that standards developers must seek to have a balance of interest groups represented on the consensus body.

In the Report and Order, the FCC states that certain interest groups must be on the Administrative Council for Terminal Attachment ("ACTA"). ANSI respectfully suggests that the ACTA be open to representation from all interested parties as required by the ANSI *Procedures for the Development and Coordination of American National Standards*.

Accordingly, ANSI suggests that the following paragraphs be modified as follows:

"51. [W]e anticipate the Administrative Council membership will represent all segments of the industry including local exchange carriers, interexchange carriers, terminal and network equipment manufacturers, test laboratories, and other interested



parties. We agree with ATIS that the individual member's industry segment or interest group, rather than the office held in industry organizations, such as Committees T1 or TR41, should be counted to ascertain the balance of membership. We require that the Administrative Council limit the number of Administrative Council members to a workable number. This requirement, however, shall not be used to limit arbitrarily participation by any one segment of the industry or interest category. In addition, to the extent there is interest among industry members and other interested parties, the Administrative Council is required to rotate the Administrative Council membership to give all interested individuals an opportunity to participate, and to avoid placing undue burden on specific individuals."

"40. The sponsoring organization is responsible for ensuring that the Administrative Council is populated ~~industry populates the Administrative Council in a manner~~ consistent with ANSI criteria for a balanced and open membership. We require the sponsor to notify the industry and other interested parties that it intends to establish an Administrative Council with membership that is balanced in terms of the points of view represented."

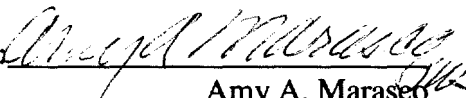
"44. We note, moreover, that both TIA and ATIS ~~parties have agreed not to serve directly eliminate influence from organizations, including TIA and ATIS themselves, as members of from~~ the Administrative Council.

## CONCLUSION

ANSI is pleased the FCC finds ANSI requirements and accreditation program helpful in serving the Commission's regulatory needs. Use of ANSI-accredited Standards Developers Organizations and their standards to help serve the Commission's regulatory mission is consistent with the National Technology Transfer and Advancement Act. However, because ANSI was not a party in the Rulemaking, it appears the FCC may not have been correctly informed concerning ANSI procedures and processes. ANSI believes the record in this matter should be corrected and requests the FCC to amend its Report and Order as requested herein in its Reconsideration proceeding. ANSI certainly would be willing to provide additional assistance if that would be helpful.

Respectfully submitted,

## American National Standards Institute

By   
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Date: February 21, 2001